



# ***COMMONWEALTH of VIRGINIA***

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**To:** Mr. David Dick  
Board for Waterworks and Wastewater Works Operators and Onsite  
Sewage System Professionals  
Virginia Department of Professional and Occupational Regulation  
3600 W. Broad Street  
Richmond, Virginia 23230

**From:** Elizabeth B. Peay  
Assistant Attorney General

**Date:** October 6, 2008

**Subject:** Letter of Assurance for 18 VAC 160-10  
Model Public Participation Guidelines

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I have reviewed the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals' changes to 18 VAC 160-10 which repeals the existing Public Participation Guidelines and adopts the Model Public Participation Guidelines. In my view, as counsel to the Board for Waterworks and Wastewater Works Operators, the

Board may promulgate these regulations pursuant to § 54.1-2301 of the *Code of Virginia*. The regulations do not appear, on their face, to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor do they appear to conflict with federal or state law currently in effect. In addition, these regulatory changes are exempt from the requirements of Virginia's Administrative Process Act (APA), Code of Virginia §2.2-4006 A.4.a because this regulatory change is necessary to conform to changes in Virginia statutory law where no agency discretion is involved.

This memorandum addresses legal matters only and is not intended to serve, nor should it be construed, as a comment for or against the merits of the proposed regulations.

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